

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

At the outset, Applicants note with appreciation the courtesy of a personal interview extended by Examiner Debra Charles to Applicants' representative, Chien Yuan. The personal interview was conducted on April 21, 2005.

Claims 23-40 and 42-60 are pending in the above-identified application. Claims 13-22 are canceled without prejudice or disclaimer by the present amendment. No other amendments are made by the present amendment, and no new subject matter is introduced by the foregoing amendment.

The Office Action rejected claims 13, 18, 23-40, 42-48, 50, 51, 59, and 60 under 35 U.S.C. § 103(a) as unpatentable over Fenner (U.S. Patent No. 5,561,706A), Castro (U.S. Patent No. 5,359,642A), and Slusky (U.S. Patent No. 5,440,620). In addition, claims 52, 53, 55, and 56 were rejected under 35 U.S.C. § 103(a) as unpatentable over Fenner, Castro, and Slusky, and further in view of Peterson et al. (U.S. Patent No. 5,594,940). Claims 14-17 and 20-22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Fenner, Castro, and Slusky, and further in view of Kohashi (JP 01108613).

As noted above, claims 13-22 are canceled and, thus, the rejections of the same are rendered moot by the present amendment.

Regarding claims 23-40 and 42-60, Applicants respectfully submit that these claims are patentable over the suggested prior art combinations.

For example, independent claim 23 recites, among other features:

a first profile memory area configured to store a dynamic client profile for at least one customer of the telecommunications network, said dynamic client profile indicating an average cost of previous connections of the customer and being derived from at least one random variable of the previous connections;

means for determining the at least one random variable with every new connection;

means for changing the dynamic client profile depending on the determined at least one random variable;

means for determining a usage fee based on the stored dynamic client profile.

The suggested combination of Fenner, Castro, and Slusky does not teach or suggest all of these features recited in claim 23, as discussed below.

Referring to claim 23, the Office Action correctly acknowledges that Fenner and Castro fail to disclose “said dynamic client profile indicating an average cost of previous connections of the customers and being derived from at least one random variable of the previous connections,” and also fail to disclose the recited means for determining the at least one random variable, means for changing the dynamic client profile, and means for determining a usage fee.<sup>1</sup> To remedy the deficiencies of Fenner and Castro with respect to claim 23, the Office Action turns to the teachings of Slusky.

Slusky is directed to a telecommunications system in which each subscriber is associated with a subscriber profile, which includes information relating to a unique subscription telephone number, a particular language used by the subscriber, etc.<sup>2</sup> A subscriber profile can only be modified by the corresponding subscriber, e.g., via the buttons of a telephone.<sup>3</sup>

However, Slusky does not disclose “said dynamic client profile indicating an average cost of previous connections of the customers and being derived from at least one random variable of the previous connections,” as recited in claim 23. Rather, Slusky is completely silent as to the “average cost of previous connections” feature recited in claim 23; this concept does not appear in any form in the teachings of Slusky.

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<sup>1</sup> Office Action dated February 24, 2005, at page 5.

<sup>2</sup> See Slusky at col. 3, line 50 – col. 4, line 51.

<sup>3</sup> See Slusky at col. 4, line 52 – col. 5, line 19.

Slusky also does not teach the recited means for determining the at least one random variable, means for changing the dynamic client profile, and means for determining a usage fee. Further, the Office Action does not point to any specific element or elements described in Slusky that correspond to these means recited in claim 23.

Applicants note that MPEP § 2181 provides guidance for examining means-plus-function language, and, in quoting *In re Donaldson Co.*, requires that “the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.”<sup>4</sup> Thus, referring to claim 23, for example, the human subscriber described in Slusky could not correspond to the recited “means for changing the dynamic client profile,” as such an interpretation exhibits clear disregard for the structure disclosed in Applicants’ specification corresponding to the function of “changing the dynamic client profile.”

Therefore, for at least the reasons discussed above, Slusky fails to remedy the deficiencies of Fenner and Castro with respect to claim 23. As such, Applicants respectfully submit that claim 23 patentably defines over Fenner, Castro, and Slusky. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 23 under 35 U.S.C. § 103(a). Claims 24-26 depend from claim 23 and, therefore, these claims are also allowable for at least the reasons discussed above.

The suggested combination of Fenner, Castro, and Slusky also fails to disclose or suggest claim 27, which is directed to a data carrier including:

means for storing a dynamic client profile for at least one customer of a telecommunications network, said dynamic client profile indicating an average cost of previous connections of the customer and being derived from at least one statistical characteristic of the previous connections of the customer;

means for determining at least one statistical characteristic with every new connection;

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<sup>4</sup> MPEP § 2181, Eighth Edition, Rev. 2, May 2004.

means for changing the dynamic client profile depending on the determined at least one statistical characteristic; and  
means for determining a usage fee based on the stored dynamic client profile.

For at least reasons substantially similar to those discussed above with respect to claim 23, Applicants respectfully submit that claim 27 patentably defines over Fenner, Castro, and Slusky. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 27 under 35 U.S.C. § 103(a). Claims 28-30 depend from claim 27 and are therefore allowable for at least the reasons discussed above.

Claim 31 is drawn to a billing method that includes, among other features, creating a client traffic distribution curve based on the statistical characteristics, generating a dynamic client profile based on the client traffic distribution curve, and calculating a usage fee associated with a new connection before termination of the new connection.<sup>5</sup>

The suggested combination of Fenner, Castro, and Slusky fails to disclose or suggest claim 31 for at least the reason that none of these references teach or suggest the creation of a client traffic distribution curve based on statistical characteristics. Rather, each of these references is completely silent as to the “client traffic distribution curve” feature. Further, none of Fenner, Castro, and Slusky teach or suggest the generating of a dynamic client profile based on the client traffic distribution curve and the calculating of a usage fee associated with a new connection before termination of the new connection. For example, Castro teaches the calculating of a usage fee only after a connection is terminated (i.e., after the duration of the connection is measured and known).<sup>6</sup>

Accordingly, Applicants respectfully submit that claim 31 patentably defines over Fenner, Castro, and Slusky for at least the above-discussed reasons. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 31 under 35 U.S.C. § 103(a).

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<sup>5</sup> See Applicants’ specification from page 7, line 29, to page 8, line 3.

<sup>6</sup> See Castro at page 8, lines 20-24.

Claims 32-40 and 42 depend from claim 31 and are also allowable for at least the reasons discussed above.

Claim 43 is drawn to a method for billing a new connection in a telecommunications network, including, among other features, determining group statistical characteristics of previous connections of at least one group of users of the telecommunications network, determining customer statistical characteristics of previous connections of a customer of the telecommunications network, and deriving a dynamic client profile based on at least one of the group statistical characteristics and the customer statistical characteristics.<sup>7</sup>

The suggested combination of Fenner, Castro, and Slusky fails to disclose or suggest claim 43 for at least the reason that none of these references teach or suggest the determining of group statistical characteristics of previous connections of at least one group of users of the telecommunications network. Rather, the references are completely silent as to the “group statistical characteristics” feature. Further, none of Fenner, Castro, and Slusky teach or suggest the determining of customer statistical characteristics of previous connections of a customer of the telecommunications network, and the deriving of a dynamic client profile based on at least one of the group statistical characteristics and the customer statistical characteristics. Fenner, Castro, and Slusky are completely silent as to these features.

Accordingly, Applicants respectfully submit that claim 43 patentably defines over Fenner, Castro, and Slusky for at least the above-discussed reasons. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 43 under 35 U.S.C. § 103(a). Claims 44-50 depend from claim 43 and are also allowable for at least the reasons discussed above.

Claim 51 is directed to a method for determining usage fees in a telecommunications network, including, among other features, generating an overall client profile based on

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<sup>7</sup> See Applicants’ specification from page 6, line 21, to page 7, line 11.

random variables associated with previous connections of a plurality of customers of the telecommunications network, and generating a customer client profile for a customer of the telecommunications network based on the overall client profile.<sup>8</sup>

The suggested combination of Fenner, Castro, and Slusky fails to disclose or suggest claim 51 for at least the reason that none of these references teach or suggest the generating of an “overall client profile” based on random variables associated with previous connections of a plurality of customers of the telecommunications network. Further, none of Fenner, Castro, and Slusky teach or suggest the generating of a “customer client profile” for a customer of the telecommunications network based on the “overall client profile.” Fenner, Castro, and Slusky are completely silent as to these features.

Accordingly, Applicants respectfully submit that claim 51 patentably defines over Fenner, Castro, and Slusky. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 51 under 35 U.S.C. § 103(a). Claims 52-60 depend from claim 51 and are also allowable for at least the reasons discussed above.

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<sup>8</sup> See Applicants’ specification from page 6, line 21, to page 7, line 16.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Gregory J. Maier  
Attorney of Record  
Registration No. 25,599

James J. Kulbaski  
Registration No. 34,648

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

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